

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

BOBBY ROSS, II,

Petitioner,

v.

No. 2:16-cv-3826

RALPH TERRY, Warden,

Respondent.

ORDER

Petitioner Bobby Ross, II, filed pro se a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus By a Person in State Custody on April 21, 2016 (ECF No. 1). Respondent filed its Motion to Dismiss Petition for Writ of Habeas Corpus on June 3, 2016 (ECF No. 8). The court received the Proposed Findings and Recommendation ("PF&R") of United States Magistrate Judge Omar J. Aboulhosn entered pursuant to Federal Rule of Civil Procedure 72(b), and petitioner filed a "Reply Brief" to the PF&R, to which respondent filed a brief response.

Having reviewed the petitioner's reply brief, the court finds that petitioner has failed to specifically and properly object to any portion of Magistrate Judge Aboulhosn's

PF&R,¹ including the finding that the petition constitutes a successive habeas application without justification under 28 U.S.C. § 2244(b) (2) and should be dismissed as such. Petitioner has further failed to address the PF&R's finding that he has not obtained authorization from the United States Court of Appeals for the Fourth Circuit to file a successive § 2254 habeas application under 28 U.S.C. § 2244(b) (3) (A), which he must do before his habeas application can be properly considered by this court.

Consequently, it is ORDERED that:

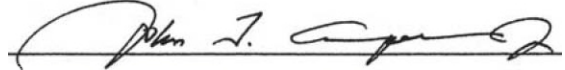
1. The recommendation made in the Proposed Findings and Recommendation of the magistrate judge be, and the same hereby is, adopted by the court;
2. Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus be, and it hereby is, granted;
3. Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus By a Person in State Custody be, and it hereby is, dismissed; and
4. Petitioner's case be, and it hereby is, dismissed, and the clerk is instructed to remove this case from the

¹ The Federal Rules of Civil Procedure state that a "district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72.

docket of the court.

The Clerk is directed to forward copies of this order to all counsel of record and the United States Magistrate Judge.

DATED: March 13, 2017

A handwritten signature in blue ink, appearing to read "John T. Copenhaver, Jr.", is written over a horizontal line.

John T. Copenhaver, Jr.
United States District Judge